IDA KLAUS, 94, LABOR LAWYER FOR U.S. AND NEW YORK, DIES

(By Nick Ravo)

Ida Klaus, a labor law pioneer who became a high-ranking New York City official in the 1950's and who wrote the law that gave city employees the right to bargain collectively, died on Monday at her home in Manhattan. She was 94.

Ms. Klaus was a lifelong labor advocate whose sympathy for the working classes was instilled in her by her mother. As a young child growing up in the Brownsville section of Brooklyn, she helped give free food from the family grocery to striking factory workers.

She organized her first union while still in her teens. She was one of three college women working as a waitress in the summer with several professional waiters at the Gross & Baum Hotel in Saratoga Springs, N.Y. One day, she heard that the hotel planned to lay off some of the waiters.

''I don't known where I got the nerve, but I said, 'Let's get together and have a meeting,' '' she said in a 1974 interview in The New York Times.

Ms. Klaus became the spokeswoman for the waiters and waitresses, and told the hotel management that if anyone was discharged, they would all go.

''At which point, Mr. Baum said he knew he shouldn't have hired college girls,'' she recalled. ''But he didn't fire anyone.''

Ms. Klaus's desire to become a lawyer also derived from the experience of watching her mother battle the court system for 10 years over her husband's estate.

But after graduating from Hunter College and, in 1925, from the Teachers Institute of Jewish Theological Seminary of America, now the Albert A. List College, she was denied admission to Columbia University Law School because she was a woman.

She taught Hebrew until 1928, when she was admitted to the law school with the first class to accept women. She received her law degree in 1931.

After graduation, Ms. Klaus worked as a review lawyer for the National Labor Relations Board in Washington. In 1948, she took the post of solicitor for the National Labor Relations Board, a position that made her the highest-ranking female lawyer in the Federal Government.

In 1954, she was hired as counsel to the New York City Department of Labor under Mayor Robert F. Wagner. She became known as the author of the so-called Little Wagner Act, the city version of the National Labor Relations Act of 1935, which recognized workers' rights to organize and bargain collectively through unions of their choosing. The Federal Wagner Act was named for the Mayor's father, Senator Robert F. Wagner.

She also wrote Mayor Wagner's executive order creating the first detailed code of labor relations for city employees.

''She is one of the pioneers and champions of bringing law and order into labor relations,'' said Robert S. Rifkin, a lawyer and longtime friend whose father, Simon H. Rifkin, was a law clerk for Ms. Klaus. ''She believed labor relations ought not to be under the rule of tooth and claw.''

Ms. Klaus briefly worked in the Kennedy Administration in 1961 as a consultant for the first labor relations task force for Federal employees.

She returned to New York in 1962 as director of staff relations for the Board of Education, where she negotiated what was reported to be the first citywide teachers' contract in the country.

She left in 1975 to become a private arbitrator. In 1980, President Jimmy Carter appointed her one of the three negotiators in the Long Island Rail Road strike.

Ms. Klaus, was born on Jan. 8, 1905, received Columbia Law School's Medal for excellence in 1996, and an honorary doctorate in 1994 from the Jewish Theological Seminary.

No close relatives survive.●

JUSTICE CLARENCE THOMAS: A GENTLEMAN OF PRINCIPLE

● Mr. HELMS. Mr. President, Monday morning I was delighted—and highly gratified—to find that the national media are finally catching up to a fact that many of us have known all along: The Honorable Mr. Justice Clarence Thomas is one of the brightest, most principled, and intellectually engaging member of the United States Supreme Court in a generation.

An article in Monday's The Washington Post headed ''After a Quiet Spell, Justice Finds Voice'' drew a profile of a Justice who refuses to subvert to his own personal views the plain meaning of statutes passed by Congress; a Justice who is committed to protecting our basic American political structure by respecting state sovereignty; and who exercises the patient to undertake the exhaustive historical research needed to ascertain the original intent of the Founding Fathers in framing our Constitution.

Clearly, Mr. President, Mr. Justice Thomas is a remarkable American—one who bears no resemblance to the often cruel and totally false caricatures his critics have attempted to create. I shall not catalogue or dwell upon the many injustices Mr. Justice Thomas has suffered at the hands of those who—for their own petty political purposes—have heaped abuse upon this fine man except to make this simple observation: Clarence Thomas has found the strength to serve his country and remain true to his principles in the face of viciously unfair personal criticism and his courage speaks volumes about the strength of his character.

Mr. President, I ask that the article from The Washington Post be printed in the RECORD.

The article follows:

[From the Washington Post, May 24, 1999]

AFTER A QUITE SPELL, JUSTICE FINDS VOICE—CONSERVATIVE THOMAS EMERGES FROM THE SHADOW OF SCALIA

(By Joan Biskupic)

He's been known by the company he's kept.

For the past eight years, Supreme Court Justice Clarence Thomas has walked in the shadow of Justice Antonin Scalia. The pair have voted together more than any other two justices, staking out the court's conservative flank but also inspiring criticism that Thomas is simply a ''clone'' or ''puppet'' of the forceful, fiery-tempered Scalia.

But increasingly, Thomas has been breaking from Scalia, taking pains to elaborate his own views and securing his position as the most conservative justice on the court.

So far this term, Thomas has more than doubled the number of opinions he has written to explain his individual rationale, compared with the two previous terms. And even though the most controversial, divisive cases of the term are yet to be announced, Thomas already has voted differently from Scalia in several significant disputes, including last week's case on welfare payments for residents new to a state and an earlier case on how public schools must treat disabled children. Through these and other opinions, a more complex portrait is emerging of the court's second black justice, who had been best known among the public for the sexual harassment accusations made against him during his 1991 confirmation hearings.

''I think Thomas has turned out to be a much more interesting justice than his critics and probably even his supporters expected,'' said Cass R. Sunstein, a University of Chicago law professor. ''He is the strongest originalist on the court, more willing to go back to history and 'first principles' of the Constitution.''

''People in conservative legal circles are definitely noticing that Thomas has found his voice,'' said Daniel E. Troy, a District lawyer and protege of former conservative judge Robert H. Bork. ''He is more willing to strike out on his own.''

This term offers new evidence of Thomas's independent thinking. Of the 45 decisions handed down so far (31 still remain), Thomas has differed from Scalia in the bottom-line ruling of five, and in five other cases he has been on the same side as Scalia but has offered a separate rationale. It's a substantial departure from their previous pattern: Since 1991, Thomas and Scalia have voted together about 90 percent of the time. As recently as two years ago, the two voted together in all but one case.

For years, the reputations and practices of the two men have helped feed the widespread impression that Thomas was content to follow Scalia's lead. Scalia, a former law professor at the University of Chicago and a longtime judge, was already known for his narrow textualist reading of the Constitution and federal statutes when he joined the high court in 1986. His creative, aggressive approach inspired an admiring appeals court judge to call Scalia a ''giant flywheel in the great judicial machine.''

Thomas, meanwhile, had little reputation as a scholar when he joined the court in 1991. He had worked in the federal bureaucracy for nearly a decade, becoming prominent as chairman of the Equal Employment Opportunity Commission. His conservatism, which included opposition to affirmative action programs, was viewed mostly in political terms.

These impressions were reinforced by the two justices' behavior at the high court. Scalia, the first Italian American justice, is a stylist of the first order, with a sharp, sardonic edge. Last year, for example, when he rejected a legal standard used by the majority, he took a page from Cole Porter, saying: ''Today's opinion resuscitates the ne plus ultra, the Napoleon Brandy, the Mahatma Ghandi, the Celophane of subjectivity, th' ol' shocks-the-conscience' test. In another case, he said, ''I join the opinion of the court except that portion which takes seriously, and thus encourages in the future, an argument that should be laughed out of court.''

Thomas, by contrast, was quiet in his early years, rarely speaking during oral arguments and writing few of his own concurring or dissenting opinions. He let Scalia hold the pen: Whatever their joint views, Scalia, 63, tended to write them up. Thomas, 50, merely signed on. Legal scholars on both the right and left publicly criticized Thomas as a pawn.

Now, however, Thomas is showing an increased willingness to express himself, speaking before broader audiences and writing more of his own opinions.

Thomas and Scalia are still very like-minded justices. More than the other conservative members of the Rehnquist Court,

they believe the Constitution should be interpreted by looking at its exact words and establishing the intentions of the men who wrote it. They are unwilling to read into a statute anything not explicitly stated. They want the government—particularly the federal government—to get out of people's lives.

But Thomas is becoming the more consistent standard-bearer of this brand of conservatism. He would go further than Scalia in overturning past court rulings that he believes conflict with the Constitution. And he is more likely than Scalia to delve into legal history predating the writing of the Constitution in 1787 and more inclined to reject recent case law.

In last week's welfare case, for example, Thomas began by tracing a core constitutional provision from the 1606 Charter of Virginia: ''Unlike the majority, I would look to history to ascertain the original meaning of the Clause,'' he wrote. While Scalia signed onto the majority opinion striking down limited welfare benefits for residents newly arrived in a state, Thomas and Chief Justice William H. Rehnquist dissented. Thomas wrote that the majority was wrongly interpreting the 14th Amendment's Privileges or Immunities Clause, raising ''the specter that the . . . Clause will become yet another convenient tool for inventing new rights, limited solely by the predilections of those who happen at the time to be members of this court.''

Thomas has also distinguished himself from Scalia by seeking more strongly to buttress state authority. He has emphasized that the Constitution's authority flows from ''the consent of the people of each individual state, not the consent of the undifferentiated people of the nation as a whole.''

This accent on states' rights was evident in a case earlier this term when only Thomas fully dissented from a voting rights decision that he believed too broadly interpreted a federal law targeting discrimination at the polls. ''The section's interference with state sovereignty is quite drastic,'' he complained.

In another example of Thomas's narrower reading of federal law, he and Scalia were on opposite sides when the court interpreted a statute intended to guarantee equal educational opportunities for disabled schoolchildren. Scalia voted with the majority in the March case to find that the federal disabilities law requires public schools to provide a wide variety of medical care for children with severe handicaps.

Thomas dissented with Justice Anthony M. Kennedy. ''Congress enacted [the law] to increase the educational opportunities available to disabled children, not to provide medical care for them,'' Thomas wrote. ''[W]e must . . . avoid saddling the states with obligations that they did not anticipate.''

Because Scalia did not write separately in any of those three recent cases—on welfare, voting rights and disabled children—it is impossible to compare directly his thinking with Thomas's. But differences between the two were visible when they both dissented from an April ruling that said defendants who plead guilty do not lose their right to remain silent during a sentencing hearing and that judges cannot use their silence against them. Scalia wrote the main opinion for the four dissenting justices, attempting to discredit the case law on which the majority relied. But Thomas also wrote a separate opinion that went still further, suggesting that an earlier case should be overturned altogether. The ''so-called penalty'' of having one's silence used adversely, Thomas wrote, ''lacks any constitutional significance.''

Some legal experts observe that Thomas's willingness to give voice to his solitary views recalls Rehnquist's position on the court in the 1970s and Scalia's in the late 1980s, before Thomas came on. He's at a point, said Troy and other observers, where he is comfortable enough to express his singular views but not so frustrated with writing alone that he is prepared to compromise.

''Thomas comes to it more as an outsider,'' said Alan Meese, a William and Mary law professor, who has followed the writings of Scalia and Thomas. ''He probably says when he looks at [an earlier ruling], 'My God, we said that? That's loony.' ''

Mr. HELMS. Mr. President, it is abundantly clear that more judges like Clarence Thomas on the Supreme Court * * *. As further proof, I offer the disastrous decision of the Supreme Court—from which Justice Thomas sensibly dissented—in the case of Davis v. Monroe County School Board. By a 5–4 margin, the Supreme Court held that public schools can be held liable under federal law for failing to stop so-called sexual harassment on the part of school children.

Exactly what constitutes sexual harassment on the part of children is not defined by the Court, Mr. President. Moreover, what constitutes the vague ''deliberate indifference'' standard that public school administrators must now avoid is anyone's guess. The meaning will no doubt be haggled over in countless frivolous lawsuits in federal court that will impose unnecessary financial costs on beleaguered school districts.

As the cacophony countless exhortations to spend ever-increasing amounts of money on federal education programs continue, Mr. President, should we not also address the financial problems federal laws cause to local school boards in our increasingly litigious society? For if more distinguished judges like Clarence Thomas are not present to rein in lawsuit-happy interest groups (e.g. the National Women's Law Center, which brought this case in the first place), we will find even the most trivial aspects of children's regrettable but predictable boorishness regulated by federal judges.

Playground teasing and immature behavior does not require a federal lawsuit, Mr. President; it may require a good spanking. Unfortunately, we often find that reasonable discipline measures result in legal action as well. Pity the taxpayer who pays the bill, Mr. President—and pity the students and teachers who must navigate this baffling legal minefield.

So thank Heaven for Clarence Thomas, who is doing his level best to hold the line against foolish decisions. We must hope the Senate will soon act to rectify the devastating financial effects frivolous lawsuits are imposing on school boards and local taxpayers across the country.●

VIOLENT AND REPEAT JUVENILE ACCOUNTABILITY AND REHABILITATION ACT OF 1999

On May 20, 1999, the Senate passed S. 254, the Violent and Repeat Juvenile Accountability and Rehabilitation Act of 1999. The text of the bill follows:

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: